

**STATE OF NEW HAMPSHIRE
INTER-DEPARTMENT COMMUNICATION**

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SUBJECT Report from Classification Subcommittee

TO Water Quality Standards Advisory Committee

Since its last report to the WQSAC on February 9, 2011, the Classification Subcommittee has met on March 21, 2011 and May 19, 2011. The Subcommittee has worked on definitions, set an interim goal, reviewed water quality standards for wetland from other states, and refined the list of proposed designated uses.

Working Description of Designated Uses

The Subcommittee developed the following description of designated uses. This description is needed because the official definition in regulation is hard to understand. Designated uses are a cornerstone of the classification process and need to be understood by all stakeholders.

The Clean Water Act requires States and Tribes to designate appropriate uses for water bodies to be achieved and protected. These so-called "designated uses" represent the range of activities that the States want to restore or maintain for the water body. Designated uses can be activities that directly benefit humans, for example clean water for recreation, or attributes that provide indirect ecosystem services, such as supporting aquatic organisms. All designated uses require some level of protection through water quality criteria. The Clean Water Act requires that States include recreation in and on the water as well as protection and propagation of fish shellfish and wildlife in the list of designated uses for all water bodies except under special circumstances. States can add other designated uses as deemed appropriate.

Subcommittee Goal

Recognizing that developing a new classification system will be a long process, the Subcommittee set the following interim goal for 2011:

Reach consensus on a list of designated uses, their definitions, and their applicability to surface waters and wetlands. This list will be the basis for future legislation for a new classification system with additional details in rule. (Deadline: 12/31/2011)

Working List of Designated Uses for Surface Waters and Wetlands

Progress to date toward the goal of creating a list of designated uses is shown in the attached table. The WQSAC received an earlier draft of this table. The major revisions made by the Subcommittee are:

- The National Goal Uses of recreation and aquatic life are identified and marked as required for all waters of the U.S.
- The two recreational uses of swimming and boating have been combined into one use related to recreation in an on the water.
- Cold water fisheries are not broken out as a separate designated use. Instead, cold water fisheries will be a subclass of Aquatic Integrity. This approach provides more flexibility and mirrors what neighboring states do.
- There was an initial proposal to have two designated uses for existing drinking water supplies and potential drinking water supplies. These two uses were combined into one after consulting with public water suppliers. Antidegradation provisions may be used to ensure greater protection for actual drinking water supplies.
- The Geomorphic Integrity designated use was renamed Flood and Erosion Hazard Protection. The new name and definition better reflect the intention of the designated use to protect against situations where the physical integrity of a water body poses a risk to public safety and infrastructure.

Next steps

The Subcommittee will continue to meet to refine the list of designated uses. Some next steps are listed below. Additional input on future work is welcome.

- GIS calculations to divide wetland assessment units into three classes: (1) wetlands that are associated with surface waters; (2) isolated wetlands with standing water; and (3) isolated wetlands without standing water.
- Create a straw man proposal for wetland narrative standards using other water quality standards from other states as a template.
- Discuss how antidegradation provisions could be used to provide additional protection to existing public water supplies.
- Research how a Flood and Erosion Hazard Protection designated use would overlap/interact with FEMA authority and criteria that would be used to determine use support.
- Research how sections 404 and 401 of the Clean Water Act would work together if designated uses are applied to wetlands.
- Research on how designated uses are related to the “public trust” uses that have been established in the courts.
- Further discussion on agriculture/industrial designated uses (i.e., if the national goals uses (recreation, aquatic life) are met for a surface water that is also used for agricultural/industrial purposes, the quality of the surface water should be adequate for agriculture/industrial use).

Draft Designated Uses for New Hampshire Surface Waters and Wetlands

Use Type	Proposed Designated Uses	Definition	Applicability	
Recreation in and on the water*	Swimming and Other Recreation in and on the Water	Waters that support recreation in and on the water, including, where applicable, swimming, wading, boating of all types, fishing, surfing, and similar activities.	Applicable to All Surface Waters	Applicable to Wetlands (if relevant)
	Fish Consumption	Waters that support a population of fish free from toxicants and pathogen that could pose a human health risk to consumers.		
	Shellfish Consumption	Waters that support a population of shellfish free from toxicants and pathogens that could pose a human health risk to consumers.		
Protection and Propagation of Fish, Shellfish, and Wildlife*	Aquatic Life Integrity	Waters that support aquatic life, including a balanced, integrated, and adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of similar natural habitats of the region.	Applicable to All Surface Waters	Applicable to Wetlands (if relevant)
	Wildlife	Waters that provide habitat capable of supporting wildlife on a regular or periodic basis. Wildlife are undomesticated life forms which may utilize the water body to support any life stage or activity.		
Public Water Supplies	Potential Drinking Water Supply After Adequate Treatment	Waters that with adequate treatment will be suitable for human intake and meet state/federal drinking water regulations.	Applicable to Some Surface Waters	Not Required for Wetlands (focus will be on the "National Goal Uses" first)
Agriculture and Industry	Agriculture	Waters that are used or have the potential to be used for general agricultural purposes, such as irrigation and livestock watering, without treatment.		
Other	Flood and Erosion Hazard Protection	Waters that support floodwater attenuation, erosion, and sedimentation processes that do not pose unnatural risks to public safety and infrastructure.		

*National Goal Uses from Section 101(a) of the Clean Water Act

All other designated uses, except for those listed as "other", are listed in Section 303(c) of the Clean Water Act.